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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

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|                                                                                     |                      |                        |             |
|-------------------------------------------------------------------------------------|----------------------|------------------------|-------------|
| <b>TRANSMITTAL FORM</b><br>(to be used for all correspondence after initial filing) | Application Number   | 09/633,869             |             |
|                                                                                     | Filing Date          | August 7, 2000         |             |
|                                                                                     | First Named Inventor | Hongyong ZHANG et al.  |             |
|                                                                                     | Group Art Unit       | 2812                   |             |
|                                                                                     | Examiner Name        | Victor Simkovic        |             |
| Total Number of Pages in This Submission                                            |                      | Attorney Docket Number | 740756-2100 |

| ENCLOSURES (check all that apply)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Request for Reconsideration After Final Office Action<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input checked="" type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application)<br><input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Group<br><input checked="" type="checkbox"/> Other: Request for Withdrawal of Finality of an Office Action Under MPEP 706.07 |
| Remarks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 19-2380 for the above identified docket number.                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                        |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |                                                                                                                      |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| Firm or Individual name                    | Jeffrey L. Costellia, Reg. No. 35,483<br>Nixon Peabody LLP<br>8180 Greensboro Drive<br>Suite 800<br>McLean, VA 22012 |
| Signature                                  |                                                                                                                      |
| Date                                       | September 24, 2002                                                                                                   |

| CERTIFICATE OF MAILING                                                                                                                                                                                                                                                                                                  |                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: <span style="border: 1px solid black; padding: 2px;">September 24, 2002</span> |                    |
| Type or printed name                                                                                                                                                                                                                                                                                                    | Adele M. Stamper   |
| Signature                                                                                                                                                                                                                                                                                                               |                    |
| Date                                                                                                                                                                                                                                                                                                                    | September 24, 2002 |

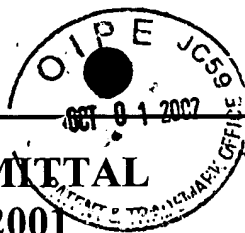
Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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# FEE TRANSMITTAL FOR FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$110.00)

Complete if Known

Application Number 09/633,869  
Filing Date August 7, 2000  
First Named Inventor Hongyong ZHANG et al.  
Examiner Name Victor Simkovic  
Group Art Unit 2812  
Attorney Docket No. 740756-2100

## METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 19-2380

Deposit Account Name Nixon Peabody LLP

- ☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☒ Payment Enclosed:

☒ Check ☐ Credit Card ☐ Money Order ☐ Other

## FEE CALCULATION

### 1. BASIC FILING FEE

| Large Entity Fee Code | Large Entity Fee (\$) | Small Entity Fee Code | Small Entity Fee (\$) | Fee Description        | Fee Paid |
|-----------------------|-----------------------|-----------------------|-----------------------|------------------------|----------|
| 101                   | 740                   | 201                   | 370                   | Utility filing fee     |          |
| 106                   | 330                   | 206                   | 165                   | Design filing fee      |          |
| 107                   | 510                   | 207                   | 255                   | Plant filing fee       |          |
| 108                   | 740                   | 208                   | 370                   | Reissue filing fee     |          |
| 114                   | 160                   | 214                   | 80                    | Provisional filing fee |          |

SUBTOTAL (1) (\$0.00)

### 2. EXTRA CLAIM FEES

| Total Claims       | Extra Claims | Fee from below | Fee Paid |
|--------------------|--------------|----------------|----------|
| 72                 | -72** = 0    | 18.00          | 0.00     |
| Independent Claims | 8            | 8.00           | 0.00     |
| Multiple Dependent |              | 280            | 0.00     |

| Large Entity Fee Code | Large Entity Fee (\$) | Small Entity Fee Code | Small Entity Fee (\$) | Fee Description                                            |
|-----------------------|-----------------------|-----------------------|-----------------------|------------------------------------------------------------|
| 103                   | 18                    | 203                   | 9                     | Claims in excess of 20                                     |
| 102                   | 84                    | 202                   | 42                    | Independent claims in excess of 3                          |
| 104                   | 280                   | 204                   | 140                   | Multiple dependent claim, if not paid                      |
| 109                   | 84                    | 209                   | 42                    | ** Reissue independent claims over original patent         |
| 110                   | 18                    | 210                   | 9                     | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) (\$0.00)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

| Fee Code | Large Entity Fee (\$) | Small Entity Fee Code | Small Entity Fee (\$) | Fee Description                                                            |
|----------|-----------------------|-----------------------|-----------------------|----------------------------------------------------------------------------|
| 105      | 130                   | 205                   | 65                    | Surcharge - late filing fee or oath                                        |
| 127      | 50                    | 227                   | 25                    | Surcharge - late provisional filing fee or cover sheet                     |
| 139      | 130                   | 139                   | 130                   | Non-English transaction                                                    |
| 147      | 2,520                 | 147                   | 2,520                 | For filing a request for ex parte reexamination                            |
| 112      | 920*                  | 112                   | 920*                  | Requesting publication of SIR prior to Examiner action                     |
| 113      | 1,840*                | 113                   | 1,840*                | Requesting publication of SIR after Examiner action                        |
| 115      | 110                   | 215                   | 55                    | Extension for reply within first month                                     |
| 116      | 400                   | 200                   | 200                   | Extension for reply within second month                                    |
| 117      | 920                   | 460                   | 460                   | Extension for reply within third month                                     |
| 118      | 1,440                 | 720                   | 720                   | Extension for reply within fourth month                                    |
| 128      | 1,960                 | 228                   | 980                   | Extension for reply within fifth month                                     |
| 119      | 320                   | 219                   | 160                   | Notice of Appeal                                                           |
| 120      | 320                   | 220                   | 160                   | Filing a brief in support of an appeal                                     |
| 121      | 280                   | 221                   | 140                   | Request for oral hearing                                                   |
| 138      | 1,510                 | 138                   | 1,510                 | Petition to institute a public use proceeding                              |
| 140      | 110                   | 240                   | 55                    | Petition to revive - unavoidable                                           |
| 141      | 1,280                 | 241                   | 640                   | Petition to revive - unintentional                                         |
| 142      | 1,280                 | 242                   | 640                   | Utility issue fee (or reissue)                                             |
| 143      | 460                   | 243                   | 230                   | Design issue fee                                                           |
| 144      | 620                   | 244                   | 310                   | Plant issue fee                                                            |
| 122      | 130                   | 122                   | 130                   | Petitions to the Commissioner                                              |
| 123      | 50                    | 123                   | 50                    | Processing fee under 37 CR 1.17(q)                                         |
| 126      | 180                   | 126                   | 180                   | Submission of Information Disclosure Stmt                                  |
| 581      | 40                    | 581                   | 40                    | Recording each patent assignment per property (times number of properties) |
| 146      | 740                   | 246                   | 370                   | Filing a submission after final rejection (37 CFR § 1.129(a))              |
| 149      | 740                   | 249                   | 370                   | For each additional invention to be examined (37 CFR § 1.29(b))            |
| 179      | 740                   | 279                   | 370                   | Request for Continued Examination (RCE)                                    |
| 169      | 900                   | 169                   | 900                   | Request for expedited examination of a design application                  |

Other fee (specify) \_\_\_\_\_

\* Reduced by Basic Filing Fee Paid SUBTOTAL (3) (\$110.00)

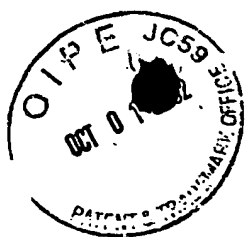
## CERTIFICATE OF MAILING

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Adelle M. Stamper

## SUBMITTED BY

Name (Print/Type) Jeffrey L. Costellia  
Signature [Signature]  
Registration No. (Attorney/Agent) 35,483  
Telephone (703) 790-9110  
Date September 24, 2002



Docket No. 740756-2100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: )  
Hongyong ZHANG et al. ) Group Art Unit: 2812  
Application Serial No. 09/633,869 ) Examiner: Victor Simkovic  
Filed: August 7, 2000 )  
For: METHOD FOR LASER- ) Date: September 24, 2002  
PROCESSING SEMICONDUCTOR  
DEVICE

TECHNOLOGY CENTER 2800  
#18  
10-15-02  
Payton

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on 9-24-2002.

Adele M. Stamper  
Adele Stamper

REQUEST FOR WITHDRAWAL OF FINALITY OF  
AN OFFICE ACTION UNDER MPEP 706.07

Commissioner for Patents  
Washington, D.C. 20231

Sir:

The Applicants respectfully request withdrawal of the finality of the Office Action of May 24, 2002 since such finality is premature in light of the failure to indicate approval by the Technology Center 2800 Director of the:

- A. Schneller-type obviousness-type double patenting rejection of claims 1, 10, and 31, as is required by MPEP Chapter 804(II)(B)(2) (page 800-27, 8<sup>th</sup> edition), and
- B. Rejection under 35 U.S.C. 103, of copied claims 31-36 (i.e., claims 1-5 and 7 of USP 5,943,593), as is required by MPEP Chapter 2307.02

As background to making this request the following sequence of events is particularly relevant.

1. On August 7, 2000, the Applicants filed along with the original application

filing papers a REQUEST FOR INTERFERENCE UNDER 37 C.F.R. 1.607 which indicated the support in the present application for the claims 31-36 which were copied from USP 5,943,593, and requested declaration of an interference.

2. The Applicants received a first Office Action, mailed July 5, 2001, in which claims 31-36 were rejected under 35 U.S.C. § 103(a) as unpatentable over Chae. (U.S. Patent 5,432,122) considered alone or together with Fehlner et al. (U.S. Patent 4,915,772), and claim 31 was rejected under the judicially created doctrine of double patenting over claims 1, 8, 17, 24 of Application No. 09/615,842, stating "there is no apparent reason why the applicant would be prevented from presenting claims corresponding to those in the instant application in the other copending application. See *In re Schneller*. 397 F2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP 804."

3. In August 2001, the USPTO issued its 8<sup>th</sup> Edition of the Manual of Patent Examining Practice (MPEP) in which Chapter 804 was amended to reflect a new USPTO policy regarding the making of "Schneller-type" obviousness-type double patenting rejections, which states the such rejections "**will be rare**" and only be made after agreement of the SPE and the "approval of the TC Director." Additionally, the MPEP Chapter 2307.02 continued the USPTO policy of requiring the approval of the TC Director for any letter containing a rejection of a patent claims (such as the instant claims 31-36). It is noted, that the first Office Action of July 5, 2001 failed to contain the TC Director's approval (signature) required for a rejection of copied claims 31-36.

4. In response to the first Office action, Applicants' representatives filed a timely AMENDMENT on October 5, 2001, adding claims 37-72, traversing each ground of rejection, and requesting withdrawal of the rejections and an indication by the Examiner of the allowability of the claims 1-72.

5. Thereafter, the Examiner issued a second non-final Office Action on

November 30, 2001, repeating the prior art combinations of the earlier Office Action to encompass claims 1-72 and adding a rejection of all claims under 35 U.S.C. 112 (first paragraph). Again, the Office Action did not contain the Director's approval of the prior art rejection of copied claims 31-36 as required by MPEP Chapter 2307.02. Further, the second Office Action did not indicate the TC Director's approval of the "Schneller-type" obviousness double patenting rejection as required by USPTO policy set forth in the MPEP Chapter 804 (8<sup>th</sup> Edition, August 2001)

6. In response to the second Office action, Applicants' representatives filed a timely REQUEST FOR RECONSIDERATION on April 3, 2002 traversing each ground of rejection and requesting withdrawal of the rejections and an indication by the Examiner of the allowability of the claims 1-72.

7. The Examiner then issued the "final" Office Action May 24, 2002, in which each prior art combination rejection was repeated, and the 112(first paragraph) rejection was withdrawn. This Office Action, like the others previously, again failed to indicate the TC Director's approval of either the prior art rejection of copied claims 31-36 or the making of the "Schneller-type" obviousness double patenting rejection. A further deficiency in this latest Office Action is the Examiner's complete failure to respond to the Applicants' traversal of the "Schneller-type" obviousness double patenting rejection in the REQUEST FOR RECONSIDERATION on April 3, 2002, at Section B. The Applicants' traversal specifically noted that claims 1, 8, 17 and 24 of the '842 application do not teach the "parallel" scanning of the present claims 1, 10 and 31.


The Applicants assert that the finality of the May 24, 2002 Office Action is premature since the Examiner has no authority to set forth in an office action either the prior art rejection of copied claims 31-36 or the "Schneller-type" obviousness double patenting rejection, as required by MPEP Chapters 2307.02 and 804, respectively,

without the TC Director's approval (signature) approving each rejection. Additionally, the Examiner did not respond to each of the Applicants' points of traversal of the rejections. Therefore, without such TC Director approval or response to Applicant's traversal, no "clear issue" can be developed between the Applicants and the Examiner, which is the principal prerequisite for making an office action final according to USPTO policy. (See MPEP Chapter 706.07).

In light of these facts and for the above reasons, it is respectfully requested that the finality of the Office Action of May 24, 2002 be withdrawn and the Response filed on even date herewith be entered, pursuant to 37 C.F.R. 1.111 rather than 37 C.F.R. 1.116.

Your prompt consideration of this request is earnestly solicited. If there are any questions concerning this request, please contact the Applicants' representative at the phone number below.

Respectfully submitted,

  
\_\_\_\_\_  
Jeffrey L. Costellia  
Registration No. 35,483

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